



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of Applicants:

Date: September 19, 2003

Booth et al.

Group Art Unit: 2152

Serial No.: 09/327,708

Examiner: Mehmet B. Geckil

Filed: June 8, 1999

Docket No.: YOR919990190US1

For: REPRESENTING, CONFIGURING, ADMINISTERING, MONITORING,
AND/OR MODELING CONNECTIONS USING CATALOGS AND MATRIXES

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Commissioner for Patents
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P.O. Box 1450
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CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

I hereby certify that the attached correspondence comprising:

Return Postcard

Request for Reconsideration of Petition to Enter Amendment as file and
Contingency Petition to Revive Application

Exhibit A

Exhibit B

Exhibit C

Exhibit D

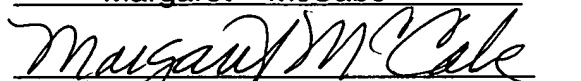
Exhibit E

is being deposited with the United States Postal Service as first class mail in an
envelope addressed to:

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450

on September 19, 2003

Margaret McCabe


(Signature of person mailing paper)



#18

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REQUEST FOR RECONSIDERATION
of
Petition to Enter Amendment as file
And
Contingency Petition to Revive Application

A DISMISSAL of the original petition was received date July 22, 2003. The dismissal states,

"Considering the errors in the petition (no Exhibit C and misstatement of the telephone number) along with the errors in the practitioner's certificate of express mail (submission of "Enger Amendment") and the apparent errors in the original certificates of transmission of September 13, 2002; a more complete statement from the parties (Ms. McCabe and Mr. Herzberg) attesting to their personal knowledge is needed. The practitioner should also explain why Exhibit B, a fax cover sheet dated "4/7/03," should be considered a confirmation of this fax transmittal."

"If the petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision.

This request for reconsideration provides the corrections to the original petition.

A Notice of abandonment of the above referenced application was received on April 8, 2003. The notice is appended hereto as Exhibit A.

This petition is to request entry of the amendment faxed by Margaret McCabe, to the USPTO on September 13, 2002 at fax phone number 703-305-9731. A confirmation of this fax transmittal is appended hereto as Exhibit B.

The following explanation of Exhibit B meets the request of the Special Program Examiner, for the practitioner to explain why Exhibit B should be considered a confirmation of the fax transmittal. Exhibit B includes the certification of facsimile transmission on the top of the first page [encircled for emphasis], showing: the date of transmission, 9/13; the time, 13:50; and the "TO" phone number, 7033059731. The "FROM" information is on right side of Exhibit B, the second line from the top, which reads, 00- IBM YORKTOWN, which is the practitioners location.

The fax number used is the fax number 703-705-9731 given for the Examiner's Group on page 5 of the Office Communication having the office action dated September 4, 2002, to which the subject fax dated September 13, 2002 is responding. Pages 5 and 6 of the Office Action are appended hereto as Exhibit C. The Group fax phone number is given towards the bottom of page 5 of Exhibit C, at the end of the first paragraph of Section '6', as 703-705-9731. This fax phone number 703-705-9731 is the number to which Margaret McCabe faxed the response to a restriction on September 13.

Applicant's representative contends that although the fax was faxed to the Examiner's Group fax shown on page 5 of Exhibit C, rather than to the fax phone number shown on page 6 of Exhibit C, the fax was confirmed in Exhibit B to be sent to the USPTO. It would be rightfully expected that once received by the USPTO, the fax would be routed to the Examiner, and the fax would serve as a timely response. This is especially so when the fax was confirmed to be received at the Examiner's Group fax phone number. Thus request is made to reinstate the application to its active state and remove it from abandonment.


Furthermore, the apparent lack of forwarding the fax received on September 13, 2002 to the Examiner ought to be considered to be USPTO error and thus no fee should be required for this petition. However, if it is deemed that a fee is required please charge account 09-0468.

Declarations from the practitioner and Ms. McCabe, attesting to their personal knowledge regarding this petition and statements therein are appended hereto as Exhibits D, and E..

Still furthermore, as a contingency, if it turns out that after applicants have exhausted their petition rights the fax dated September 13 is still not entered, and the above referenced application stands abandoned, request is made herewith to use this petition as a petition to revive the application. Again, since the abandonment is due to PTO error the fee for the petition to revive should be waived. If however, the fee for the contingency petition is waived, please charge account 09-0468, to remove the status of abandonment.

Please contact the undersigned regarding any of the issues regarding the above referenced application.

Respectfully submitted,

By: 
Louis P. Herzberg
Reg. No. 41,500

IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, New York 10598
Voice Tel. (914) 945-2885
Fax. (914) 945-3281

PRE

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/327,708	06/08/1999	EARL HARDIN BOOTH	YO999-190	5804

7590 04/08/2003

LOUIS P HERZBERG IPLD
IBM CORORATION
P O BOX 218
YORKTOWN HEIGHTS, NY 10598



EXAMINER

MIRZA, ADNAN M

ART UNIT PAPER NUMBER

2141

DATE MAILED: 04/08/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

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TECHNOLOGY CENTER
YORKTOWN HEIGHTS, NY

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OFFICE OF PETITIONS

p24

Notice of Abandonment

Application No.

09/327,708

Examiner

Adnan M Mirza

Applicant(s)

BOOTH ET AL.

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 04 September 2002.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Contact the attorney's office. According to the applicant there was response sent through fax but lack of providing the evidence to prove the validity of the date. The case is resulted in abandonment. The applicant was advised to file the petition in order to revive the case.

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office

PTO-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 5



EXHIBIT B

** TX STATUS REPORT **

AS OF SEP 13 '02 13:51 PAGE.01

OO-IBM YORKTOWN

	DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	CMD#	STATUS
23	09/13	13:50	7033059731	EC--S	00'31"	002	112	OK

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AND/OR MODELING CONNECTIONS USING CATALOGS AND MATRIXES

Assistant Commissioner for Patents
Washington, D. C. 20231

Date: September 13, 2002

Group Art Unit: 2152

Examiner: Mehmet B. Geckil

Docket No.: YOR919990190US1

SEP 26 2003
Technology Center 2100

CERTIFICATION OF TRANSMISSION

PURSUANT TO 37 CFR 1.8

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (1 page) is being facsimile transmitted under Rule 37 CFR 1.6(d) to the U.S. Patent and Trademark Office to (703) 308-9031 on September 13, 2002.


Margaret McCabe

IBM TJ Watson Research Center
P.O. Box 218
Yorktown Heights, NY 10598
(914) 945-3217



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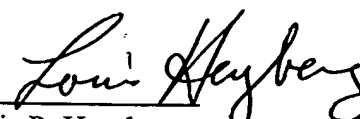

Margaret McCabe

AMENDMENT

Response to Restriction Requirement Dated September 4, 2002:

Applicants elect without traverse Group I (claims 1-45).

Respectfully submitted,

By: 
Louis P. Herzberg
Reg. No. 41,500

IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, New York 10598
Voice Tel. (914) 945-2885
Fax. (914) 945-3281

DOCKET NUMBER: YOR919990190US1

Application/Control Number: 09/327,708

Page 5

Art Unit: 2152

- a) The Group I search (1-45) would require use of search classified in Class 709, subclass 242, (which would not be required for the Group II,III,IV,V);
- b) The Group II search (claims 46-54) would require use of search Class 709, subclass 249, (which would not be required for the Group I,III,IV,V),
- c) The Group III search (claims 55-70) would require use of search classified in Class 709, subclass 223, (which would not be required for the Group I,II,IV,V);
- d) The Group IV search (claims 71-84) would require use of search classified in class 709, subclass 128, (which would not be required for the Group I,II,III,V);
- e) The Group V search (claims 85-90) would require use of search classified in class 709, subclass 220, (which would not be required for the Group I,II,III,IV); therefore restriction for examination purposes as indicated is proper.

5. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

6. Any inquiry concerning this communication of earlier communications from the examiner should be directed to Adnan Mirza whose telephone number is (703) 305-4633. The examiner can normally be reached on business days during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for this Group is (703) 305-9731.

David Wiley, 703-308-5271

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Application/Control Number: 09/327,708

Page 6

Art Unit: 2152

Commissioner of Patents and Trademarks
Washington, DC, 20231

Or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-5359 (for informal or draft communications, please label
"PROPOSED" OR "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

08/27/02

MEHMET B. GECKIL
PRIMARY EXAMINER

Meht B. Geckil



EXHIBIT D

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Booth et al.

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DECLARATION

The undersigned declares that the statements made in the accompanying

REQUEST FOR RECONSIDERATION
of
Petition to Enter Amendment as file
And
Contingency Petition to Revive Application

for the above referenced application, dated September 19, is correct to the best of my knowledge.

Respectfully submitted,

By: Louis Herzberg
Louis P. Herzberg
Reg. No. 41,500

IBM CORPORATION
Intellectual Property Law Dept.
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Voice Tel. (914) 945-2885
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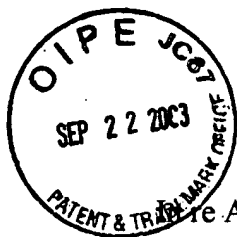


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I declare that I faxed the 'Amendment' responding to the restriction on September 13, 2002, to the USPTO group fax phone number 703-705-9731.

Respectfully submitted,

By: 
Margaret McCabe

Administrative Aid to
Louis P. Herzberg
Reg. No. 41,500
IBM CORPORATION

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Fax. (914) 945-3281